



**DEPARTMENT OF CORRECTIONS
YOUTH COMMUNITY CORRECTIONS BUREAU
POLICY**

Policy No.: YCC 1.3.12	Subject: STAFF CONDUCT WITH CURRENT AND DISCHARGED YOUTH	
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Section 3: Personnel	Revision Date: 11-06-06, 11-23-07, 10-10-08, 09-25-09, 05-24-10	
Applicable ACA Standards: 2-7027, 3-JCRF-5A-09		
Signature: /s/ Karen Duncan	Effective Date: 01-09-06	
Signature: /s/ Steve Gibson		

I. POLICY:

It is the policy of the Youth Community Corrections (YCC) Bureau to ensure that all employees maintain the optimum level of professionalism and ethical standards toward any individual currently or formerly under the care, custody, or supervision of the Youth Services Division (YSD). This policy will be reviewed annually and updated as needed.

II. APPLICABILITY:

All YCC facilities and programs

III. DEFINITIONS:

Abuse - actual physical or psychological harm to a child; substantial risk of physical or psychological harm to a child; or abandonment. The term includes, but is not limited to: (a) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare; or (b) exposing a child to the criminal distribution of dangerous drugs, as prohibited by [45-9-101](#), MCA, the criminal production or manufacture of dangerous drugs, as prohibited by [45-9-110](#), MCA, or the operation of an unlawful clandestine laboratory, as prohibited by [45-9-132](#), MCA.

Collateral Contact – any person, other than a youth, with whom an employee of the agency may come in contact for official reasons concerning a youth under the care, custody, or supervision of the Department. Collateral contacts may include, but are not limited to: youth's families, friends and associates; youth's employers; treatment or medical providers; youth's school professionals, instructors, trainers, or supervisors; volunteer coordinators; attorneys; judicial personnel; and law enforcement.

Contractor – any person or corporation, other than an employee, providing a service to the Department (e.g., supervision, custody duties at treatment centers, drug and mental health treatment, vocational and educational programs) for an agreed-upon form of compensation. Contractors may include local government agencies that contract with the Department or individuals who have contact with youth under the supervision of the Department in a community setting.

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Designee – an individual appointed or chosen for a specific purpose.

Discharged Youth - an individual who was previously under supervision of the Youth Services Division.

Employee – paid employees or contracted persons, volunteers and interns who are paid or donate time or services to the Department, and individual service providers, e.g., delivery, maintenance, vendors, or other service providers who may not be contracted by the Department.

Inappropriate Relationship – prohibited or unlawful behavior toward a youth, which includes any one or more of the acts listed under Section C, Prohibited Contact and D, Alleged Staff Misconduct, as evidenced by conversation, correspondence, or other observable behavior in policy YCC 1.3.12.

Mistreatment – pursuant to [45-5-204, MCA](#), means a person commits the criminal offense of mistreating prisoners if, being responsible for the care or custody of a prisoner, the person purposely or knowingly: 1) assaults or otherwise injures a prisoner; 2) intimidates, threatens, endangers, or withholds reasonable necessities from the prisoner with the purpose to obtain a confession from the prisoner or for any other purpose; or, 3) violates any civil right of a prisoner. In YCC policy and procedures prisoner equates to youth. While being responsible for the care or custody of a youth, the person purposely or knowingly: (a) assaults or otherwise injures a youth; (b) intimidates, threatens, endangers, or withholds reasonable necessities from the youth with the purpose to obtain a confession from the youth or for any other purpose; or (c) violates any civil right of a youth.

Professional Relationship – an employee relationship with youth maintained through well-defined professional boundaries and the highest ethical standards of honesty, integrity, and impartiality pursuant to [DOC 1.3.2, Attachment A., Code of Ethics](#).

Retaliation – an act of revenge, either overt or covert, or threat of action taken against a youth or any other individual in response to that youth's or individual's complaint of misconduct or cooperation in the reporting and investigation of alleged misconduct. Forms of retaliation toward a youth or individual may include, but are not limited to, unnecessary or excessive discipline, intimidation, unnecessary changes in work or program assignments, unjustified transfers to other institutions, unwarranted placement in protective custody, and unjustified denials of privileges or services.

Sexual Misconduct - Incidents of both staff sexual misconduct and youth-on-youth sexual abuse. The Department defines sexual misconduct, which encompasses both staff sexual misconduct and youth-on-youth sexual abuse, as follows:

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1. **Non-consensual Sexual Act:** An incident in which one or more of the following acts occurs without the youth's consent, or the youth is unable to consent or refuse:
 - a. contact between the penis and the vagina or the penis and the anus involving penetration, however slight. It does not include kicking, grabbing, or punching genitals when the intent is to harm rather than sexually exploit;
 - b. contact between the mouth and the penis, vagina, or anus; and
 - c. penetration of the vagina or anus of another person by hand, finger, or other object.
2. **Abusive Sexual Contact:** Sexual contact without the youth's consent, or in which the youth is unable to consent or refuse. This includes one or more of the following behaviors:
 - a. intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of the victim; and sexual contact does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than sexually exploit.
3. **Staff Sexual Misconduct:** Any behavior or act of a sexual nature directed toward a youth by an employee, volunteer, contractor, official visitor, or other agency representative; sexual relationships of a romantic nature between staff and youth are included in this definition. Consensual or nonconsensual sexual acts are defined as follows:
 - a. intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire;
 - b. completed, attempted, threatened, or requested sexual acts; and
 - c. occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.
4. **Staff Sexual Harassment:** Repeated verbal statements or comments of a sexual nature to a youth by an employee, volunteer, contractor, official visitor, or other agency representative. Behaviors may include:
 - a. demeaning references to gender or derogatory comments about body or clothing; and
 - b. repeated profane or obscene language or gestures.

Undue Familiarity – any conversation, contact, personal or business dealing between an employee and a youth who is under the care, custody, or supervision of the Department that is unnecessary or not part of the employee's duties, and related to a personal relationship or purpose other than a legitimate correctional purpose. Undue familiarity includes, but is not limited to: acts of horseplay, betting, trading, dealing, socializing, family contact unrelated to the employee's duties, sharing or giving food, sharing or giving tobacco products, inappropriate personal conversation, exchanging personal correspondence, sexual misconduct, or in any other manner developing a relationship with a youth that is anything other than a professional relationship.

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Visitor – any person having access to any Department or agency offices and workplaces for personal or official reasons.

Volunteer - any person who has been approved to provide services for Department programs without compensation, including non-compensated interns.

Youth - an individual aged 10 through 17 who has been court-ordered to the Department of Corrections for placement into a secure care facility.

IV. PROCEDURES:

A. Disclosure Requirement

1. Any employee who is related to or had a prior relationship with a youth admitted to his or her supervision or location of employment will report to the YCC Bureau Chief, in writing, the nature, extent, and history of the relationship.
2. Any employee who has concern that s/he is at risk of involvement in prohibited conduct will report immediately to her/his supervisor in writing the nature, extent, and history of the relationship.
3. Staff members who engage in inappropriate relationships as defined in section IV.C , or receive any telephone calls or written communications involving undue familiarity from youth or the close associates of youth, will immediately report these matters to their supervisor:
 - a. the supervisor will instruct the employee on the appropriate course of action after consultation with the YSD Administrator, or designee, and Human Resource Bureau; and
 - b. supervisors and administrators will forward all notifications to the Human Resource Bureau where they will be maintained in a file designated “staff association” should any questions arise regarding the reported contact.
4. Exceptions may be granted according to [DOC 1.3.12 section IV.B.2](#)

B. Required Conduct

Employees, as defined in this policy, will be governed by the following principles in their interactions with youth:

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1. Employees will maintain professional relationships with youth at all times, protecting them from civil rights' violations.
2. Employees will provide services to youth without regard to race, color, gender, disability, national origin, religious preference, or sexual orientation and will not display favoritism toward, or discrimination against, any youth or group of youth.
3. When encountering a youth or discharged youth in the community, e.g., in stores or restaurants, employees will maintain a professional relationship, without engaging in undue familiarity.
4. Employees will limit their relationships with youth and youth's families to officially authorized activities. They will conduct themselves in a manner to avoid conflict of interest or being placed in a situation that may compromise their professional integrity, compromise security, or cause embarrassment to the Department of Corrections and the State of Montana.

C. Prohibited Conduct

1. Employees will not engage in abusive behaviors toward or mistreatment of youth as defined in Section III of this policy.
2. Employees will not engage in inappropriate or prohibited relationships with youth. The following are examples of behaviors that are prohibited between employees and youth, including youth's family members or close associates:
 - a. using profane, indecent, ethnic, or other discriminatory language or references;
 - b. displaying favoritism or preferential treatment of one youth, or group of youth, over another;
 - c. giving, trading, selling, buying or receiving of gifts, favors, or services beyond those allowed by the Department;
 - d. having contact with a current or discharged youth for reasons not related to their designated department duties or legitimate business activities;
 - e. becoming personally involved with a youth to the extent that the employee's judgment or performance of duties is compromised;
 - f. providing housing or supportive services outside the scope of their designated department duties;
 - g. entering into any type of business partnership or fiduciary relationship.
 - h. undue familiarity to the extent that the employee's judgment or performance of duties may be compromised to include, but not limited to:
 - i. acts of horseplay

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- ii. socializing
- iii. sharing personal information, e.g., family member names, ages, schools, etc.
- iv. youth family contact unrelated to the employee's official duties
- v. exchanging written correspondence of a personal nature
- vi. developing a relationship with a youth that is anything other than a professional relationship

D. Alleged Staff Misconduct

The YCC Bureau will comply with the following Department policies and procedures for the reporting, referral, investigation, and disposition of alleged staff misconduct by any employee toward a youth.

1. Mandatory Reporting

Any person subject to this policy must report all allegations of abuse, mistreatment, or sexual misconduct between an employee and a youth in accordance with [DOC 1.3.12, Staff Association and Conduct with Offenders](#).

2. Medical Referral

The YSD Administrator, YCC Bureau Chief, or designee will ensure that alleged victims of abuse, mistreatment, or sexual misconduct by an employee are immediately referred to a health care professional for a medical evaluation.

3. Mental Health Referral

The YSD Administrator, YCC Bureau Chief, or designee will ensure that alleged victims of abuse, mistreatment, or sexual misconduct by an employee are immediately referred to a mental health specialist for a mental health evaluation.

4. Investigation

All reports of alleged instances of abuse, mistreatment, or sexual misconduct between an employee and a youth will be immediately investigated in accordance with [DOC 3.1.19, Investigations](#).

5. Disciplinary Action

- a. If investigation and due process procedures determine that an employee has committed abuse, mistreatment, or sexual misconduct toward a youth, that

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employee will be subject to discipline up to, and including, termination, as outlined in [MOM III, Policy 3-0130, Discipline](#).

- b. Employees who are terminated for abuse, mistreatment, and sexual misconduct toward a youth will not be eligible for re-employment to any position within the Department of Corrections; and
- c. Under Montana law, a person convicted of the offense of mistreating prisoners will be removed from office or employment and will be imprisoned in the state prison for a term not to exceed ten years or be fined an amount not to exceed \$50,000, or both, in accordance with [45-5-204, MCA](#).

6. False Reporting

Youth or other parties who submit false reports of violations will be subject to disciplinary action or criminal charges under [MCA 45-7-203, Unsworn Falsification to Authorities](#); or [45-7-205, False Reports to Law Enforcement Authorities](#)

E. Confidentiality

- 1. A misconduct complaint, including all information and documents pertinent to the complaint, will be handled with sensitivity and the appropriate level of confidentiality.
- 2. Information will only be revealed on a “need to know” basis or in defense of disciplinary or legal action.
- 3. Breaches of confidentiality may result in corrective or disciplinary action up to, and including, termination.

F. Records

- 1. Mandatory reporting or misconduct referral forms, the investigative file, and any other documents pertaining to the misconduct complaint will be forwarded to the Department’s Human Resources Division.
- 2. The Department’s Human Resources Division will retain statistics and report them according to [DOC 1.3.12, Staff Association and Conduct with Offenders](#), with regard to the number and nature of misconduct incidents.

G. Retaliation

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1. Department employees will not retaliate against the complainant, the victim, the accused, witnesses, or informants involved in the filing and investigation of misconduct allegations.
2. Retaliation in any form may result in corrective or disciplinary action up to, and including, termination.

H. Facility and Program Procedures

1. YCC Bureau staff members with responsibility for the care, custody, or supervision of youth will:
 - a. expedite investigation and resolution of complaints referenced in this policy, to include reprioritization of other ongoing investigations and provide an initial report of findings to the administrator within five workdays of complaint receipt;
 - b. notify youth of their protection and responsibilities by ensuring them access and review of this policy in accordance with [DOC 4.1.2, Offender Orientation](#);
 - c. notify youth they may report staff misconduct using [YCC 60-12, Offender Grievance Procedures](#), or by making a verbal report to any department employee;
 - d. ensure youth access to the formal grievance process in accordance with [YCC 60-12, Youth Grievance Procedures](#), and access to the reporting procedures and form contained within [DOC 1.3.12, Staff Association and Conduct with Offenders](#) and [YCC 60-12 \(A\) Montana Juvenile Parole Youth Grievance Form](#);
 - e. provide for the care and treatment of individuals who are alleged or substantiated victims of staff sexual misconduct in accordance with [DOC 1.3.12 Staff Association and Conduct with Offenders](#); and
 - f. collect statistics on the number of reported incidents, and the number of substantiated incidents. The YCC Bureau Chief or designee will forward these to the Department's Human Resources Division, in writing, on a monthly basis.
 - g. at Great Falls Youth Transition Centers, each house will provide a secure lock box for youth-to-staff communication.

V. CLOSING:

Questions concerning this policy shall be directed to the Youth Community Corrections Bureau Chief.

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VI. REFERENCES:

<u>2-2-104, MCA</u>	<u>Rules of Conduct for Public Officers, Legislators, and Public Employees</u>
<u>45-2-101, MCA</u>	<u>Definitions of State and Mind General Definitions</u>
<u>45-5-204, MCA</u>	<u>Mistreating Prisoners</u>
<u>45-5-501, MCA</u>	<u>Sexual Crimes Definition</u>
<u>45-5-502, MCA</u>	<u>Sexual Assault</u>
<u>45-5-503, MCA</u>	<u>Sexual Intercourse without Consent</u>
<u>45-7-203, MCA</u>	<u>Unsworn Falsification to Authorities</u>
<u>45-7-205, MCA</u>	<u>False Reports to Law Enforcement Authorities</u>
<u>MOM 3-0130,</u>	<u>Discipline</u>
<u>DOC 1.3.2</u>	<u>Employee Performance and Conduct Guidelines</u>
<u>DOC 1.3.12</u>	<u>Staff Association and Conduct with Offenders</u>
<u>DOC 3.1.19</u>	<u>Investigations</u>
<u>DOC 3.3.3</u>	<u>Offender Grievance Procedures</u>
<u>DOC 4.1.2</u>	<u>Offender Reception and Orientation</u>
<u>YCC 60-12</u>	<u>Youth Grievance Procedures</u>

VII. ATTACHMENTS:

None